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22 Inc.: MR. PATRICK OTLEWSKI
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1 (Proceedings heard in open court. Jury out.)

2 THE CLERK: 11 CV 8808, Kraft Foods Global,
3 Incorporated, *et al.*, versus United Egg Producers,
4 Incorporated, *et al.*

5 THE COURT: All right. Good morning, everyone.

6 Let's get everyone's appearances on the record, if
7 you would, please.

8 Start with counsel for the plaintiffs.

9 MR. FOX: Good morning, Your Honor.

10 Brandon Fox on behalf of the plaintiffs.

11 MS. KASTANEK: Andrianna Kastanek on behalf of the
12 plaintiffs.

13 MS. ALLEN: Good morning.

14 Angela Allen on behalf of the plaintiffs.

15 MS. HARUTYUNYAN: Sati Harutyunyan on behalf of the
16 plaintiffs.

17 MS. HLOUSEK: Good morning.

18 Margaret Hlousek on behalf of plaintiffs.

19 MR. SUMMERS: Matthew Summers on behalf of
20 plaintiffs.

21 MR. PELZ: Joe Pelz on behalf of the plaintiffs.

22 THE COURT: All right. Good morning to everybody on
23 the plaintiffs' team.

24 Defense team, go ahead, please.

25 MR. COLLINS: Good morning, Your Honor.

1 Patrick Collins, Cal-Maine.

2 MR. OTLEWSKI: Good morning, Your Honor.

3 Patrick Otlewski, also for Cal-Maine.

4 MS. KISER: Good morning.

5 Liv Kiser, also on behalf of Cal-Maine.

6 MS. SUMNER: Good morning, Your Honor.

7 Robin Sumner on behalf of UEP and USEM.

8 THE COURT: Good morning.

9 MR. KING: Good morning, Your Honor.

10 Jim King on behalf of Defendant Rose Acre Farms.

11 MR. LEVINE: Good morning, Your Honor.

12 Jay Levine on behalf of Rose Acre Farms.

13 THE COURT: Good morning.

14 MR. GALLON: Good morning.

15 Eric Gallon on behalf of Rose Acre.

16 MR. HURD: Good morning.

17 David Hurd on behalf of Rose Acre Farms.

18 THE COURT: Good morning, Mr. Hurd.

19 MR. CARTER: Good morning.

20 Allen Carter on behalf of Rose Acre Farms.

21 THE COURT: All right. Good morning, everybody.

22 Good morning.

23 I see the Rust family back there.

24 Good morning, folks. Thank you for being here.

25 All right. So we are here to receive the verdict. I

1 received a note from the jury. It's got today's date on it,
2 December 1st. It's dated today and with a time of 10:18. It
3 says, "Judge Seeger, we, the jury, have reached a verdict."

4 Signed by Michael Lake.

5 Would anyone like to see the note?

6 We'll obviously file it, but here it is. That's all
7 it says.

8 I wanted to give any interested member of the public
9 an opportunity to come. That's why we're receiving it at
10 about 11:00.

11 So we have reached the end of the road, as they say.
12 We are about to get the jury's verdict.

13 Is there anything that we need to cover from your
14 perspective before we bring the jury in here?

15 MR. FOX: No, Your Honor.

16 THE COURT: Anyone?

17 MR. COLLINS: Not for Cal-Maine.

18 MR. KING: Not for Rose Acre.

19 MS. SUMNER: No, Your Honor.

20 THE COURT: All right. The only thing I'd say to
21 remind everybody, under my standing order, I do not allow
22 lawyers to contact the jurors. So -- they've done enough and
23 then some.

24 So let's go ahead. And without further ado, let's
25 get the jury.

1 (Jury in at 11:10 a.m.)

2 THE COURT SECURITY OFFICER: All rise.

3 THE COURT: Have a seat, everyone.

4 Well, good morning. Good morning, everyone. Thank
5 you for being here.

6 Members of the jury, I received a note through the
7 court security officer, dated December 1st, at a time of 10:18
8 that read as follows: "Judge Seeger, we, the jury, have a
9 verdict." It's signed by Mr. Michael Lake.

10 Mr. Lake, are you the foreperson again, sir?

11 THE FOREPERSON: I am.

12 THE COURT: Would you please stand up.

13 Please answer yes or no to the following questions.

14 Has the jury reached a unanimous verdict?

15 THE FOREPERSON: Yes.

16 THE COURT: Is the verdict signed by each juror?

17 THE FOREPERSON: Yes.

18 THE COURT: And is it dated?

19 THE FOREPERSON: Yes.

20 THE COURT: All right. Very good.

21 If you'd please hand the completed verdict form to
22 the court security officer, he will hand it to me.

23 Thank you, Mr. Lake.

24 Thank you, officer.

25 I have the jury verdict form in my hands. I'm now

1 going to look at the jury verdict form. I'm going to make
2 sure it's complete. I'm going to make sure all the answers
3 were given, and then I'm going to read it in open court.

4 Members of the jury, when I read it out loud, please
5 listen carefully.

6 (Brief pause.)

7 THE COURT: I have now read the verdict. I will now
8 announce the verdict publicly.

9 We, the jury, unanimously find as follows on the
10 questions submitted to us, and we return our verdict in this
11 case as follows:

12 Question No. 1: "Plaintiffs seek nominal damages of
13 \$1 for the part of the conspiracy involving the short-term
14 measures (*i.e.*, early slaughter, early molting, and flock
15 reduction). Do you award nominal damages to one or more
16 plaintiffs for the part of the conspiracy involving the
17 short-term measures?

18 "Answer: Yes."

19 It then asked the jury to respond separately for each
20 plaintiff.

21 The question was framed as follows:

22 "If the answer to the question is 'yes,' enter a
23 dollar below.

24 "If the answer to the question is 'no,' enter zero
25 below.

1 "You must respond separately for each plaintiff."

2 Kraft foods: \$1.

3 The Kellogg Company: \$1.

4 General Mills: \$1.

5 Nestlé USA: \$1.

6 Question No. 2: "Plaintiffs seek nominal damages of
7 \$1 for the part of the conspiracy involving the exports as
8 part of the USEM export program.

9 "Do you award nominal damages to one or more
10 plaintiffs for the part of the conspiracy involving exports?

11 "Answer: Yes."

12 Once again, it said, "If the answer to the question
13 is 'yes,' enter a dollar below.

14 "If the answer to the question is 'no,' enter zero
15 dollars below.

16 "You must respond separately for each plaintiff."

17 It then read as follows:

18 Kraft Foods Global: \$1.

19 The Kellogg Company: \$1.

20 General Mills: \$1.

21 Nestlé USA: \$1.

22 Turning the page. I'm on Page 4, Question No. 3.

23 "Did plaintiffs prove that they sustained damages as
24 a result of the part of the conspiracy involving the UEP
25 Certified Program (*i.e.*, the cage space or henhouse density

1 restrictions, and/or the restriction on backfilling of
2 egg-producing hens)? You must respond separately for each
3 plaintiff."

4 Kraft Foods Global: Yes.

5 The Kellogg Company: Yes.

6 General Mills: Yes.

7 Nestlé USA: Yes.

8 The instruction was that if you answered yes to any
9 part of Question No. 3, proceed to Question No. 4.

10 Question 4 then read as follows:

11 "What is the total amount of damages that you award
12 to each plaintiff for the part of the conspiracy involving the
13 UEP Certified Program (*i.e.*, the cage space or henhouse
14 density restrictions, and/or the restriction on backfilling of
15 egg-producing hens)?"

16 The instruction then read as follows:

17 "Include a dollar amount for one or more of the
18 plaintiffs only if you answered 'yes' for that plaintiff in
19 response to Question No. 3."

20 The answer then read as follows:

21 Kraft Foods Global: \$12,830,502.

22 Let me say that again.

23 \$12,830,502.

24 The Kellogg Company: \$3,223,766.

25 Let me read that again.

1 The Kellogg Company: \$3,223,766.

2 General Mills: \$913,928.

3 Let me say that again.

4 General Mills: \$913,928.

5 Finally, Nestlé USA: \$809,383.

6 Again, Nestlé: \$809,383.

7 I have looked at the last page. I see 12 signatures.

8 I see the signatures from each member of the jury. It is
9 dated December 1st, 2023, that's today's date.

10 As before, I have read the verdict out loud. I'm now
11 going to poll the members of the jury. I'm going to go down
12 the line, and I'm going to ask a simple question to every
13 member of the jury: "Was this and is this your verdict?"

14 So, Mr. Lake, if you'd be kind enough, sir, to please
15 stand up, and I'm going to ask you the question.

16 Mr. Lake, was this and is this your verdict?

17 THE FOREPERSON: Yes.

18 THE COURT: Mr. Cioni, was this and is this your
19 verdict?

20 JUROR CIONI: Yes.

21 THE COURT: Mr. Glas, was this and is this your
22 verdict?

23 JUROR GLAS: Yes.

24 THE COURT: Mr. Jessup, was this and is this your
25 verdict?

1 JUROR JESSUP: Yes.

2 THE COURT: Mr. Law, was this and is this your
3 verdict?

4 JUROR LAW: Yes.

5 THE COURT: Mr. Copeland, was this and is this your
6 verdict?

7 JUROR COPELAND: Yes.

8 THE COURT: Mr. Mejias, was this and is this your
9 verdict?

10 JUROR MEJIAS: Yes.

11 THE COURT: Mr. Sirivetpanich, was this and is this
12 your verdict?

13 JUROR SIRIVETPANICH: Yes.

14 THE COURT: Mr. Burton, was this and is this your
15 verdict?

16 JUROR BURTON: Yes.

17 THE COURT: Ms. Buenaobra, was this and is this your
18 verdict?

19 JUROR BUENAOBRA: Yes.

20 THE COURT: Ms. Yonamine, was this and is this your
21 verdict?

22 JUROR YONAMINE: Yes.

23 THE COURT: And finally, Ms. Alcantar, was this and
24 is this your verdict?

25 JUROR ALCANTAR: Yes.

1 THE COURT: All right. I have now polled all 12
2 members of the jury. They've confirmed on the record that it
3 was and is their verdict. All members of the jury have said
4 yes.

5 The Court finds that the verdict is unanimous.

6 I am handing the jury note to my courtroom deputy for
7 safekeeping. I'm also handing my courtroom deputy the
8 original jury verdict form for filing.

9 Counsel, is there anything that we need to do with
10 the jury before I dismiss them once and for all?

11 MR. FOX: No, Your Honor.

12 MR. COLLINS: No for Cal-Maine.

13 MR. KING: No for Rose Acre.

14 MS. SUMNER: No for UEP or USEM.

15 THE COURT: All right. Members of the jury, you are
16 officially done. There is no third stage, as I said the other
17 day.

18 I can't thank you enough. You know, as I was driving
19 home yesterday and I was driving down to work today, I was
20 thinking about you all, as I candidly do every day --
21 candidly, every day I think about you all -- and I was just
22 thinking what to say to you for your truly extraordinary
23 public service. You were here for seven weeks. You were here
24 for seven weeks. That's remarkable, honestly. You are a
25 remarkable, extraordinary group of people, truly. Seven

1 weeks. Starting to think about that, seven weeks.

2 I looked it up. You go from an egg to a chick in
3 three weeks, 21 days, an egg to a chick. We could have a lot
4 of chickens. That's 21 days.

5 Seven weeks is roughly half of the Bear's season.
6 Seven weeks is almost Army basic training. Seven weeks is a
7 long time, right? Seven weeks is a long time. Think about
8 what the weather was like when you all rolled in here in the
9 middle of October. It was in the 70s. Now we're all
10 buttoning up every day, have gotten a couple of inches of snow
11 by now.

12 Your public service has been extraordinary. For
13 seven weeks every one of you was here. Not one of you missed
14 a day. Not one of you got late. Not once. Ever. You were
15 12 for 12. You were early every day. I never see this kind
16 of public service at this level for this long.

17 And you consistently had a positive attitude. You
18 brought energy into the room every day. You were attentive.
19 I saw you listening. You weren't staring into the distance
20 and bored and not taking it seriously. You took it seriously
21 every single day. I saw it. You were listening. You paid
22 attention. I saw it. Taking notes and watching the lawyers
23 and listening to the witnesses. You were a very attentive
24 jury.

25 And I just want to say on behalf of the Court itself,

1 and me personally and my staff, how much we appreciate your
2 public service. And we are not just saying this. We really
3 mean it.

4 You know, I know each one of you has a backstory
5 about all the sacrifices you made to be here. Each of you
6 could say all the things you've missed and missed out at work
7 and maybe school, inconveniences you've had. I'm sure each of
8 you had inconveniences. You had to get on the bus or take a
9 train or drive down here, some days bad traffic. You know,
10 you missed things for work, you missed things for school, you
11 missed things for other activities you wanted to do. You made
12 personal and professional sacrifices to be here. And you came
13 in every day with a smile and energy and a positive attitude.
14 Thank you for doing that.

15 You know, I said before something that I'll say
16 again. Some of you have served your country before. Some of
17 you have -- some of you will serve your country again. All of
18 you have served your country now. All of you have served the
19 United States of America now in a very noble way. And I hope
20 this system -- I hope it makes you feel a little bit of
21 pride -- more than a little bit of pride with what you've done
22 as a jury in your jury service. I hope you had a good
23 experience with the jury system, with the judicial system.
24 And I hope you feel proud about your service to your country.
25 Truly.

1 So, you know, the parties aren't going to have a
2 chance to address you again. I know that if they had a
3 chance, they would thank you again.

4 Am I right on that, folks?

5 Thank you again on behalf of the parties.

6 MR. FOX: Absolutely.

7 THE COURT: Yeah, they do appreciate it. They do
8 appreciate it. You put up with a lot to be here for seven
9 weeks.

10 Thank you. Thank you.

11 So here's the last thing, folks: I'm going to
12 dismiss you. I do have certificates of appreciation from the
13 Court. So I'm going to in a moment invite you to go to the
14 jury room. I'm going to say good-bye to the lawyers, and I'm
15 going to be back there just in a minute. And I'd like to just
16 hand each of you a certificate. I know it's not a lot, but
17 it's what we do here to say thank you.

18 Okay. Anything else I need to cover with the jury,
19 anyone?

20 Okay. Members of the jury, you are officially
21 discharged from jury duty. Please go to the jury room. I'll
22 be back there in about 60 seconds.

23 Okay. Thank you, folks.

24 THE COURT SECURITY OFFICER: All rise.

25 (Jury out at 11:24 a.m.)

1 THE COURT: All right. Have a seat, everyone.

2 Well, that's a wrap. We've reached the end of the
3 road on the jury service.

4 I did not have an opportunity to add it up. I don't
5 know what the aggregate amount is. My ballpark sense is it's
6 roughly 18 million or so, just -- Mr. Fox, do you know what
7 the number is?

8 MR. FOX: Including the nominal damages, Your Honor,
9 I just put it in Excel, \$17,777,587.

10 THE COURT: Okay. So I wasn't off by that much, I
11 suppose, as luck would have it.

12 So as I said before, all of that would be trebled,
13 including the nominal damages, subject, obviously, to the
14 motion.

15 So we've got a number of motions for directed
16 verdict. They are awaiting my attention. We've got a
17 briefing schedule. I'll put a minute entry out there with the
18 schedule.

19 Any other housekeeping matters?

20 MR. FOX: Your Honor, our petition for fees will be
21 due 14 days after final judgment. Would you like us to submit
22 something pending the motions or would you like us to --

23 THE COURT: So that's after final judgment, right?

24 MR. FOX: That's correct.

25 THE COURT: So I'm going to rule on the motion for

1 directed verdict obviously before I enter judgment, as I would
2 have to. So you've got time to work on that because the
3 schedule won't be -- you know, I won't even get the briefs,
4 you know, for another month and a half here, right, so --

5 MR. FOX: Thank you, Your Honor.

6 THE COURT: -- you can sit tight on that.

7 Any other housekeeping matters from anyone? I think
8 we've got a schedule in the works.

9 I'll say on the motions for directed verdict, I don't
10 know if I will need oral argument on that. Maybe I will,
11 maybe I won't. If I do, I will contact you. I would say in
12 general, I don't often have oral argument on motions because
13 it's not usually as helpful to me as I thought it might be
14 before taking the bench.

15 This might be a situation where I want to do that.

16 I'll look it over.

17 If you all feel strongly about having oral argument,
18 you could say in there you request it, and I'll consider it.

19 I usually basically do it if I think it's going to be
20 helpful to me.

21 Any other housekeeping matters from your end,
22 especially on the motion for directed verdict?

23 I think that's the last piece of the puzzle for me, I
24 think.

25 You know, I wanted to thank you all for being here

1 for seven long weeks. I think we've spent a lot of time
2 together. I said before what I thought of the caliber of the
3 lawyering, and I still feel the same way. Hats off to all of
4 you for working so hard and so well and at such a high level
5 for your clients for so long.

6 So I'll just leave it at that.

7 So anything else from the plaintiffs?

8 MR. FOX: No. Once again, thank you, Your Honor, for
9 all your time.

10 THE COURT: All right. Thank you.

11 Anything else from the defense team?

12 MR. COLLINS: Nothing for Cal-Maine. Thank you,
13 Your Honor.

14 MR. KING: Thank you, Your Honor.

15 MS. SUMNER: Thank you, Your Honor.

16 THE COURT: All right. I will see you when I see
17 you. I'm going to go hand out the certificates to the jurors.
18 We'll be in touch.

19 Take care, folks.

20 THE CLERK: All rise.

21 (Court adjourned at 11:28 a.m.)
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23
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25

* * * * *

CERTIFICATE

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

/s/ Amy Kleynhans

12/4/2023

Amy Kleynhans, CSR, RPR, CRR
Official Court Reporter

Date